

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231B.2(1) and 231D.2(2), the Department of Inspections and Appeals hereby amends Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs and Adult Day Services,” Iowa Administrative Code.

The amendments implement changes resulting from legislation in 2014 Iowa Acts, House File 2365, which establishes an informal conference process for elder group homes and adult day services programs. The legislation gives elder group homes and adult day services programs the opportunity to contest the Department’s final findings in an informal conference with an independent reviewer. The informal conference provisions in 2014 Iowa Acts, House File 2365, mirror legislation passed for assisted living programs in 2013 Iowa Acts, Senate File 394. The implementation of these amendments will allow for a consistent process between these three types of providers for informally contesting the Department’s final findings.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 3, 2014, as **ARC 1616C**. No comments were received on the proposed amendments.

These amendments have been changed since publication under Notice of Intended Action. New Item 9 has been added to amend subparagraph 67.14(2)“c”(3) for consistency with amendments to rule 481—67.14(17A,231C,85GA,SF394) that change “assisted living program” to “program.” Subsequent items have been renumbered accordingly.

The Department does not believe that the amendments impose any financial hardship on any regulated entity, body, or individual.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 231B.2(1) and 231D.2(2) and 2014 Iowa Acts, House File 2365.

These amendments shall become effective January 1, 2015.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **481—67.12(17A,231B,231D)**.

ITEM 2. Amend rule 481—67.13(17A,231C,85GA,SF394), catchwords, as follows:

481—67.13(17A,231B,231C,231D,85GA,SF394 HF2365) ~~Assisted living programs—exit~~ Exit interview, final report, plan of correction.

ITEM 3. Amend subrule 67.13(1) as follows:

67.13(1) Exit interview. The department shall provide an exit interview in person or by telephone at the conclusion of a monitoring, during which the department shall inform the ~~assisted living~~ program’s representative of all issues and areas of concern related to insufficient practices. A second exit interview shall be provided if the department identifies additional issues or areas of concern. The program shall have 2 working days from the date of the exit interview to submit additional or rebuttal information to the department.

ITEM 4. Amend rule 481—67.14(17A,231C,85GA,SF394), introductory paragraph, as follows:

481—67.14(17A,231B,231C,231D,85GA,SF394 HF2365) ~~Assisted living programs—response~~ Response to final report. Within 20 working days after the issuance of the final report and assessment of civil penalty, if any, the ~~assisted living~~ program shall respond in the following manner.

ITEM 5. Amend subrule 67.14(1) as follows:

67.14(1) If not contesting final report. If the program does not desire to seek an informal conference or contest the final report and civil penalty, if assessed, the program shall remit to the department of inspections and appeals the amount of the civil penalty, if assessed. If ~~an assisted living~~ a program has

been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if the requirements of subrule 67.17(5) are met.

ITEM 6. Amend subrule 67.14(2), introductory paragraph, as follows:

67.14(2) *Informal conference.* If the ~~assisted-living~~ program desires to contest the final report and civil penalty, if assessed, and request an informal conference, the ~~assisted-living~~ program shall notify the department of inspections and appeals in writing that it desires to contest the final report and civil penalty and request in writing an informal conference with an independent reviewer.

ITEM 7. Amend subparagraph **67.14(2)“b”(2)** as follows:

(2) Documentation supporting the ~~assisted-living~~ program’s position. The ~~assisted-living~~ program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies). Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. “Good cause” means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.

ITEM 8. Amend subparagraph **67.14(2)“c”(2)** as follows:

(2) The conference will be scheduled for one hour. The ~~assisted-living~~ program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the ~~assisted-living~~ program’s presentation. Due to the confidential nature of the conference, attendance may be limited.

ITEM 9. Amend subparagraph **67.14(2)“c”(3)** as follows:

(3) If additional information is requested by the independent reviewer during the informal conference, the ~~assisted-living~~ program will have 2 working days to deliver the additional materials to the independent reviewer.

ITEM 10. Amend subparagraph **67.14(2)“c”(4)** as follows:

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the ~~assisted-living~~ program may be given one opportunity to reschedule the face-to-face conference.

ITEM 11. Amend subparagraph **67.14(2)“d”(3)** as follows:

(3) The ~~assisted-living~~ program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.

ITEM 12. Amend paragraph **67.14(3)“a”** as follows:

a. If the ~~assisted-living~~ program does not desire to further contest an affirmed or modified final report, the ~~assisted-living~~ program shall, within 5 working days after receipt of the written decision of the independent reviewer, remit to the department of inspections and appeals the civil penalty, if assessed.

ITEM 13. Amend paragraph **67.14(3)“b”** as follows:

b. If the ~~assisted-living~~ program does desire to further contest an affirmed or modified final report, the ~~assisted-living~~ program shall, within 5 working days after receipt of the written decision of the independent reviewer, notify the department of inspections and appeals in writing that it desires to formally contest the final report.

[Filed 10/8/14, effective 1/1/15]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/29/14.